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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P. (C) No. 7888/2017**

JITF WATER INFRASTRUCTURE LTD. Petitioner
Through: Mr. Alok Yadav, Advocate.

versus

UNION OF INDIA & ANR. Respondents
Through: Mr. Harish Kumar Garg, Advocate
for R-1/UOI.
Mr. Abhishek Ghai, Advocate for Mr.
Sanjeev Narula, Senior Standing
Counsel for the Revenue.

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE PRATHIBA M. SINGH

ORDER

% **06.09.2017**

C.M. APPL. 32577/2017 (exemption)

1. Allowed, subject to all just exceptions.

W.P. (C) No. 7888/2017 & C.M. APPL. 32576/2017 (stay)

2. The Petitioner challenges an order dated 14th June 2016 passed by the Customs, Excise and Service Tax Appellate Tribunal ('CESTAT') requiring the Petitioner to make a further deposit of Rs. 3 Crores in addition to the amount of Rs. 2.51 crores which was already deposited by it with the Respondent Department during investigation, as a pre-condition for hearing its appeal against the original impugned order dated 26th September 2013.

3. According to the Petitioner, the duty demanded by three Show Cause Notices ('SCN') issued to it was in the sum of Rs. 12.96 crores. This is

disputed by the learned counsel for the Respondents, who states that, for the purpose of calculation of the pre-deposit amount, the duty and penalty demanded have to be taken into account and the aggregate sum according to him works out to Rs. 22.7 crores.

4. What is not in dispute, however, is that during the stage of investigation itself, the Petitioner had deposited with the Department Rs. 2.51 crores which works out to more than 10% of the total demand in terms of three SCNs even taking the sum as put forth by the Department. The said sum should have been considered by the CESTAT to be adequate in the facts and circumstances of the case for the purposes of pre-deposit.

5. Consequently, the impugned order is set aside and it is directed that the Petitioner will not be required to make any further pre-deposit beyond the sum of Rs. 2.51 crores already by it at the stage of investigation for its appeal before the CESTAT to be heard on merits.

6. The writ petition is allowed and the pending application is disposed of in the above terms.

7. Copy of the order be given *dasti* under the signature of the Court Master.

S. MURALIDHAR, J.

PRATHIBA M. SINGH, J.

SEPTEMBER 06, 2017/dk